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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JACKIE TIDWELL,  
Plaintiff/Petitioner,

vs.  
ZHEJIANG JIANDI TRADING &  
INDUSTRIAL .  
CO., LTD.,  
Defendant/Respondent,

and

TV PRODUCTS USA, INC., WALMART  
STORES, INC., BIG LOTS STORES, INC.,  
Garnishees.

*Document Filed Electronically*

CIVIL ACTION NO. 3:13-cv-5701

**ANSWER AND AFFIRMATIVE  
DEFENSES OF TV PRODUCTS USA, INC.  
TO VERIFIED PETITION FOR SPECIAL  
PROCEEDING AND TURNOVER OF  
JUDGMENT DEBTOR'S PROPERTY  
HELD BY GARNISHEE  
JURY TRIAL DEMANDED**

Pursuant to Fed. R. Civ. Proc. 7(a)(2), TV Products USA, Inc. ("TVP") responds to the numbered paragraphs of the VERIFIED PETITION FOR SPECIAL PROCEEDING AND TURNOVER OF JUDGMENT DEBTOR'S PROPERTY HELD BY GARNISHEE filed by Petitioner Jackie Tidwell ("Petitioner") as follows:

**JURISDICTION AND VENUE**

1. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1, and therefore denies those allegations.
2. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies those allegations.

3. Admitted.

4. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore denies those allegations.

5. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5, and therefore denies those allegations.

6. Admitted as to TVP.

### **THE PARTIES**

7. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies those allegations.

8. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies those allegations.

9. TVP admits that it is Products is a corporation incorporated under the laws of New York, conducting business in New York and maintaining an office in New York. TVP denies the remaining allegations of paragraph 9.

10. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies those allegations.

11. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies those allegations.

### **SUMMARY OF APPLICATION**

12. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12, and therefore denies those allegations.

13. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13, and therefore denies those allegations.

14. Denied.

15. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore denies those allegations.

**STATEMENT OF FACTS**

16. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore denies those allegations.

17. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17, and therefore denies those allegations.

18. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies those allegations.

19. Denied.

20. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore denies those allegations.

21. TVP is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore denies those allegations.

22. TVP admits that paragraph 22 purports to be a restatement of CPLR § 5225(b) for which no response is required.

23. TVP admits that paragraph 23 purports to be a quote from Koehler v. Bank of Bermuda, 12 N.Y. 3d 533, 540 (N.Y. 2009) for which no response is required.

24. TVP admits that paragraph 24 purports to be a quote from Koehler v. Bank of Bermuda, 12 N.Y. 3d 533, 541 (N.Y. 2009) for which no response is required.

25. Paragraph 25 is a legal conclusion for which a response is not required. To the extent that a response is required, paragraph 25 is denied as to TVP.

26. Paragraph 26 is a legal conclusion and/or statement of fact for which a response is not required. To the extent that a response is required, paragraph 26 is denied as to TVP.

27. Denied as to TVP.

28. Denied as to TVP.

29. Paragraph 29 is a legal conclusion and/or statement of fact for which a response is not required. To the extent that a response is required, paragraph 29 is denied as to TVP.

30. Denied as to TVP.

31. Denied as to TVP.

32. Paragraph 32 is a legal conclusion and/or statement of fact for which a response is not required. To the extent that a response is required, paragraph 32 is denied as to TVP.

### **AFFIRMATIVE DEFENSES**

As its separate affirmative defenses to Petitioner's claims and allegations, TVP alleges as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

The Verified Petition fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

TVP does not now possess, nor has it ever possessed, property owned by or in which the Judgment Debtor, Zhejiang Jiandi Trading & Industrial Co., Ltd. has an interest. Accordingly,

TVP cannot be subject to a special proceeding under CPLR §§ 5225(b), 5227 and/or 5228 (or any other statute cited by Petitioner).

**PRAYER FOR RELIEF**

WHEREFORE, TVP requests that this Court enter judgment:

- (a) that Petitioner take nothing against TVP by its Verified Petition in this action;
- (b) finding, declaring, and adjudging in favor of TVP and against Petitioner, dismissing with prejudice all claims of Petitioner against TVP; and
- (c) granting such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

TVP demands a jury trial on all issues so triable.

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By: s/ Jason S. Oliver  
Jason S. Oliver

*Attorneys for TV Products USA, Inc.*

Dated: September 10, 2013  
New York, New York




**VERIFICATION**

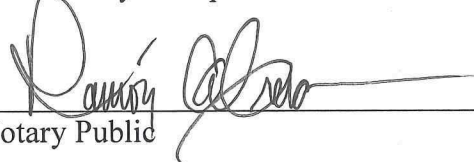
STATE OF NEW YORK                    )  
  )  
COUNTY OF NEW YORK                )       ss.:

**JASON S. OLIVER**, being duly sworn, deposes and says:

I am an attorney of Baker & Hostetler LLP, attorneys for alleged garnishee TV Products USA, Inc. with offices located at 45 Rockefeller Plaza, New York, New York 10111; that I have read the foregoing Answer to Verified Petition and know the contents thereof; that the same is true to my knowledge; and the reason why this verification is made by myself instead of the alleged garnishee is because the alleged garnishee is not located within the County of New York, which is the county where the case was filed.

  
\_\_\_\_\_  
JASON S. OLIVER

Sworn to before me  
this 10<sup>th</sup> day of September 2013

  
\_\_\_\_\_  
Notary Public

**RAMON C. CABRERA, JR.**  
Notary Public, State of New York  
No. 01CA6155386, Qualified in Bronx County  
Certificate Filed in New York County  
Commission Expires 11/13/2014

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 10, 2013 a true and correct copy of the foregoing was transmitted electronically to the Electronic Filing System of the United States District Court for the Southern District of New York, which is believed to have sent notice of such filing, constituting service of the filed document, on all Filing Users, all of whom are believed to have consented to electronic service.

Executed on September 10, 2013, at New York, New York.

s/ Jason S. Oliver  
Jason S. Oliver